

Maharashtra State Commission for Protection of Child Rights.

Introduction :

The Maharashtra State Commission for Protection of Child Rights has been set up in July, 2007 as a statutory body under Commission for Protection of Child Rights Act 2005 (4 of 2006) to protect, promote and defend child rights in the state. In the act, a child has been defined as a human being below the age of eighteen years. Child Rights as per Section 2 (b) of the Act, includes the rights provided under the CRC. The major standards for children prescribed in the CRC are as follows:

- (a) The child is protected against all forms of discrimination, based upon race, colour, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status.
- (b) In all actions concerning children, the best interests of the child shall be a primary consideration.
- (c) The child shall have the right to identity, name & nationality.
- (d) Every child has the inherent right to life, survival and development, including the right to the highest attainable standard of health to to facilities for the treatment of illness, the right to education, which shall be directed to the development of the child's personality, talent and mental and physical abilities to their fullest potential; and the right to benefit from social security.
- (e) A child has right to rest & leisure, & to engage in play and recreational activities.
- (f) Every child has right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
- (g) No child shall be subjected to illicit transfer, abduction, sale or traffic for any purpose or in any form.
- (h) Views of the child are to be given due weightage.
- (j) A child shall not be separated from parents against their will, except when such separation is necessary for the best interest of the child.
- (k) A child deprived of family environment, shall be entitled to special protection and assistance provided by the State.
- (l) Institutions, services and facilities responsible for the care or protection of children shall conform to the standards established

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- (m) A mentally or physically disabled child should enjoy a full & decent life, in conditions which ensure dignity, promote self-reliance & facilitate active participation in the community.
 - (n) Children are protected from economic exploitation.
 - (o) Children are not subjected to illicit use of narcotic drugs and psychotropic substances.
 - (p) Children are protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.
 - (q) Every child is protected from all forms of sexual exploitation and sexual abuse.
 - (r) No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment or be deprived of his liberty unlawfully or arbitrarily.
 - (s) All appropriate measures shall be taken to promote physical and psychological recovery and social re-integration of a child victim of any form of neglect, exploitation or abuse, torture.
 - (t) The rules of international humanitarian law applicable to children in armed conflicts are respected
 - (u) Every child alleged as, accused of, or recognized as having infringed the penal law has right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth.
 - (v) No child is subjected to arbitrary or unlawful interference with his/her privacy, home or to unlawful attacks on his/her honour and reputation.

Mandate :

The functions of the Commission as laid out in the Act are as follows:

1. The Commission shall perform all or any of the following functions, namely;
 - a. examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;
 - b. present to the State Government, annually and at such other intervals, as the Commission may deem fit, Reports upon the working of those safeguards;
 - c. inquire into violation of child rights and recommend initiation of proceedings in such cases;
 - d. examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/ AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures;
 - e. look into matters relating to children in need of special care and protection, including children in distress, marginalised and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;
 - f. study treaties and other international instruments and undertake periodical review of existing policies, programmes, and other activities on child rights and make recommendations for their effective implementation in the best interest of children;
 - g. undertake and promote research in the field of child rights;
 - h. spread child rights literacy among various sections of society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means;
 - i. inspect or cause to be inspected any juvenile custodial home or any other place of residence or institution meant for children, under the control of State Government or any other authority including any institution run by a

social organization, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary

j. inquire into complaints and take up moto notice of matters related to:

(i) deprivation and violation of child rights

(ii) non implementation of laws providing for protection and development of children

(iii) non compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children or take up the issues arising out of such matters with appropriate authorities

k. such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions

2. The Commission shall not inquire into any matter which is pending before a Central Commission or any other Commission duly constituted under any law for the time being in force.

In addition, the Commission is to perform the following functions also:

(a) Analyse existing law, policy and practice to assess compliance with Convention on the Rights of the Child, undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislations from a child rights perspective

(b) Present to the State Government annually and at such other intervals as the Commission may deem fit, reports upon the workings of these safeguards;

(c) Undertake formal investigations where concern has been expressed either by children themselves or by concerned persons on their behalf;

(d) Ensure that the work of the Commission is directly informed by the view of children in order to reflect their priorities and perspectives;

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- (e) Promote, respect and serious consideration of the views of children in its work and in that of all Govt. Departments and Organizations dealing with child;
 - (f) Produce and disseminate information about child rights;
 - (g) Compile and analyse data on children;
 - (h) Promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children.

Power :

The Commission, while enquiring into any matter, has all powers of the Civil Court trying a suit under the Code of Civil Procedures, 1908 and in particular, with respect to the following matters:

(a) Summoning and enforcing the attendance of any person from any part of India and examining them on oath;

(b) Requiring the discovery and production of any documents;

(c) Receiving evidence on Affidavits;

(d) Requisitioning of any Public Record or copy thereof from any Court of Office;

(e) Issuing commissions for the examination of witnesses or documents;

(2) To Forward a case to Magistrates who have jurisdiction to try the same

(3) On completion of inquiry, can take following actions:

(i) To recommend to concerned Government for initiation of proceedings for prosecution or other suitable action on finding any violation of child rights and provisions of law during the course of an inquiry;

(ii) To approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) To recommend to concerned Government or authority for grant of such interim relief to the victim or the members of his family as considered necessary

Composition :

The commission consists of the following Members to be appointed by the State Government for a term of three years :

- (a) A Chairperson, who is a person of eminence and has done outstanding work for promoting the welfare of children.
- (b) Six Members, out of which, two shall be women, with experience, eminence, integrity, standing and ability in the field of education, child health, care, welfare, development, juvenile justice, care of neglected or marginalized children or children with disabilities, elimination of child labour, child psychology and laws relating to children.
- (c) The State Government shall by notification appoint an officer not below the rank of Secretary to the State Government as the Secretary of State Commission.

COMPLAINT MECHANISM :

One of the Core Mandates of the Commission is to inquire into the complaints of violations of child rights. The commission is also required to take *suo moto* cognisance of serious cases of violation of child rights and to examine factors that inhibit the enjoyment of rights of children. The commission evolved as Notification (I) and (II).

अधिसूचना क्रमांक -१ (Notification No.१)

बाल हक्क संरक्षण आयोग एक statutory संस्था आहे. तसेच सदर आयोग बाल हक्क कायदा २००५ व त्याखालील निर्मित नियमान्वये कार्य करतात. आयोगाची स्थापना शासन निर्णय क्रमांक बाहआ २००६/प्र.क्र.१३९/का.३, दिनांक २४.७.२००७ अन्वये करण्यात आली. बालहक्क कायदा २००५ च्या उप कलम १३(१)(J) व त्या कलमाचे उपकलम १३(१)(J) (i)(ii) (iii) व उपकलम १३(१)(k) खालील नमूद बाबीकरिता सदर अधिनियमाचे कलम १४ (१) व त्या खालील उपनियमान्वये प्रदान केलेल्यो अधिकारांची अंमलबजावणीकरिता procedure निश्चित करण्याचे काम आयोगाचे विचारार्थीन होता. सदर प्रस्ताव आयोगाने मान्य केला. त्याप्रमाणे Procedure खालीलप्रमाणे निश्चित करण्यात आलेली आहे.

१) बालहक्क संरक्षण अधिनियमाच्या नियम १३(१) (J) खालील प्रकरणाची सुनावणीकरिता आयोगाचे सदस्यांमध्ये खालीलप्रमाणे कामाचे वाटप केले आहे. मा. उच्च न्यायालय, मुंबई, M.A.T. व Information commission या धर्तीवर मुंबई प्रधान कार्यालय व औरंगाबाद व नागपूर येथे आयोगाचे बेंच राहिल.

(अ) प्रधान बेंच (मुंबई, पुणे व कोकण विभाग) : आयोगाचे अध्यक्ष, अॅड. मिनाक्षी जयस्वाल, श्रीम. फरिदा लांबे, सदस्य, श्रीम.बिनासेठ लष्करी, सदस्य सदस्य सचिव, श्री. अ.ना. त्रिपाठी.

(ब) औरंगाबाद बेंच (नाशिक व औरंगाबाद) : डॉ. शीला कदम, सदस्य, श्रीम अस्मिता पाटील, सदस्य व श्री.सुर्यकांत कुलकर्णी, सदस्य

(क) नागपूर बेंच (अमरावती व नागपूर) : श्री. सुर्यकांत कुलकर्णी, सदस्य व अॅड. रेखा बारहते, सदस्य

२. बालहक्क कायदा १३(१)(J) (i)(ii) (iii) व उपकलम १३(१)(k) खालील प्राप्त तक्रार आयोगाचे कार्यालय मुंबई येथे येतील. तक्रार प्राप्त झाल्यानंतर ज्या ज्या विभागाचे (बेंच) संबंधित तक्रार आहे त्या त्या विभागाकडे (बेंच) तक्रार वर्ग करण्यात येतील.

३. विभाग निहाय सुनावणी करण्याकरिता अंतर्गत स्थानाचे बदल त्या विभागाचे सदस्य आपले स्तरावर निश्चित करतील.

४. सुनावणीकरिता कमीत कमी दोन सदस्यांचा कोरम राहिल.
५. सदस्यांमध्ये विभागनिहाय कामाचे बदल जर करायचे असेल तर सदर बदल आयोगाचे बैठकीत निश्चित करण्यात येतील.
६. काही महत्वाचे प्रकरण असल्यामुळे आयोगाचे सर्व सदस्याची बैठक (सुनावणीकरिता) प्रधान बेंच मुंबई येथे राहिल. महत्वाचे प्रकरण निश्चितीचे काम अध्यक्ष व सदस्य सचिव हे करतील. तसेच प्रत्येक महिन्यात एक दिवस सर्व सदस्यांची बैठक (सुनावणीचे कामाकरिता) मुंबई येथे राहिल. शक्यतो आयोगाची बैठक ज्या दिवशी असेल त्याच दिवशी ही बैठकसुद्धा ठेवण्यात येईल.
७. विभागनिहाय काम लक्षांत घेता एका विभागातून इतर विभागात (बेंचमध्ये) सुनावणीकरिता सदस्यांना अध्यक्ष पाठवू शकतील.
८. या पूर्वी विभागनिहाय सुनावणीकरिता कामाचे वाटपाबाबत झालेला आदेश रद्द करण्यात येत आहे.

Notification No.1

1. State Commission for Child Right is a Statutory Organisation created under Commission for Protection of Child Right Act 2005. The State Government has created State Commission under the said act 2005, by it's order No.C.R.C./2006/ C.R.139/D-3/dated 24/7/2007
2. Provisions as mentioned under Sub section (1) J and (1) J (i) (ii) (iii) of section 13 and sub section (1) k of section 13 along with the sub sections , section (1) of section 14 , with respect to power as given to the State Commission , the proposal to frame procedure to implement the said provisions was under consideration at the Commission's Level. The proposal has been accepted by the Commission, accordingly the procedure have been framed and made as follows.
 - (1) In order to follow sub-section (J) (i) (ii) (iii) of section 13 of Child Rights Commission Act 2005, work have been allocated among the members of the commission on the line of information commission and Maharashtra Administrative Tribunal as under
 - (a) The main bench of the Commission shall be in **Mumbai** and circuit benches at **Aurangabad** and **Nagpur** respectively.

(b) Main branch (Mumbai, Pune and Konkan division) –

Chairman :- Adv. Smt. Meenaxi S. Jaiswal,
Members:- Smt. Beena Seth Lashkari,
Smt. Farida Lambey,
Member Secretary:- Shri. A.N.Tripathi

(c) Aurangabad Bench (Nashik and Aurangabad)

Member:- Dr. Sheela Kadam,
Smt. Asmita Patil and
Shri. Suryakant Kulkarni.

(d) Nagpur bench (Nagpur and Amravati)

Member:- Adv. Rekha Barhate and
Shri Suryakant Kulkarni.

(2) Complaint's under sub section J (1)(i) (ii) (iii) and (1)k of section 13 of Commission for Protection of Child Right Act 2005, shall be received in Mumbai and after receiving the complaint the same shall be allotted to respective benches.

3. Within their jurisdictions the change of place to conduct the hearing shall be decided by the members of respective benches .
4. Quorum of at least two members required for hearing.
5. Transfer of members from one bench to others shall be decided in the meeting of the commission .
6. If there is involvement of any important matter then the said matter

shall be heard at Mumbai before full house of commission . The nature of matter whether important or not shall be decided by the chairman, & Secretary (members , Secretary referred as) .The full house hearing shall be held at least once in every month at Mumbai . Full house hearing and meeting of commission probably shall be arranged on same day .

7. The members may be sent for hearing from one division (bench) to other by chairman after considering the work load.
8. Any earlier orders issued in this regard is here by cancelled.

अधिसूचना क्र.२

महाराष्ट्र राज्य बाल हक्क संरक्षण आयोग राज्यशासनाच्या दिनांक २४.७.२००७ च्या आदेशान्वये केंद्र शासनाच्या २००५ च्या अधिनियमाद्वारे व त्यासंदर्भात राज्यशासनाने दिनांक ३१.५.२०१० रोजी केलेले नियम.

कार्यपद्धती

बाल हक्क संरक्षण आयोगाकडे यापुढे ज्यास आयोग म्हणून संबोधित करण्यात येईल. कोणाही व्यक्तीस / प्राधिकरण / संस्थेस / केंद्र शासनाच्या अथवा राज्यशासनाच्या प्राधिकरणाच्या / संस्थेच्या जेथे केंद्र अथवा राज्यशासनाच्या ताब्याखाली असेल किंवा सुओ मोटो सूचनेद्वारे कृतीकरिता खालील बाबी करिता दाद मागता येईल.

- a) बाल हक्क हिरावून घेणे किंवा त्याचे उल्लंघन करणे.
- b) बालकाच्या संरक्षण व कल्याणाकरिता असलेल्या अधीयमांची अंमलबजावणी करणे.
- c) बाल हक्क धोरणाशी सममत नसणे, दुःखी पिडीत बालकांचे दुःख कमी करणे तसेच बालकाच्या कल्याणाकरिता व त्यांना मदत करणे.
- d) आणखीही असे की बालकांच्या हक्कांकरिता व त्या अनुषंगाने इतर अनुषंगिक कार्याकरिता आवश्यक असलेले कर्तव्य.

१. अर्जदारांनी सर्व अर्ज सचिव, बाल हक्क संरक्षण आयोग, ३ रा मजला, शासकीय परिवहन इमारत, सर पोचखानवाला रोड, वरळी, मुंबई-४०० ०३० यांचे नावे पाठवावीत.
२. अर्जदारांनी त्यांच्या अर्जावर त्यांचे संपूर्ण नांव, पत्ता व सर्व गैरअर्जदारांची नावे व पत्ता नमूद करावा. सदर अर्ज फूलस्केफ पेपरवर डबल स्पेस देऊन टंकलिखित केलेला असावा. व तो घटनेच्या क्रमानुसार व प्रत्येक परिच्छेदास क्रमांक दिलेला असावा. घटनेची सर्व सत्य परिस्थिती त्याकरिता पुरावे व प्रत्यक्ष मागणी अर्जदाराने आपल्या सहीनिशी अथवा वकिलामार्फत करावी.
३. अर्जाच्या सहा प्रती दाखल कराव्यात व त्यासोबत अर्जदाराने सर्व दस्तऐवज व अर्जाला पूरक असे क गदपत्र प्रतिज्ञापत्रामध्ये दाखल करावीत. अर्जाच्या सर्व पानांवर क्रमांक घातलेले असावेत.
४. अर्जदाराने अर्जाच्या प्रती सर्व गैरअर्जदारास पाठवाव्यात व पोस्टाची किंवा कोरिअरची पावती अर्जासोबत जोडावी.
५. प्रत्येक अर्जास घटनाक्रम (Index) असावा.
६. अर्ज प्राप्त झाल्यानंतर सुनावणीकरिता सर्व पक्षकारांना वकीलामार्फत, केन्दशासन, राज्यशासन, इतर प्राधिकरण, मिडीया अथवा इतर दुस-या माध्यमामार्फत नोटीस पाठविवण्यात येईल. नोटिसीमध्ये दिनांक व आयोगासमोर सुनावणीची जागा कळविवण्यात येईल.
७. जर एखाद्या समान विषयाकरिता पुष्कळ अर्ज आले असतील व त्यात एकच मागणी असेल तर आयोग पक्षकारांना वर्तमानपत्रात जाहिरात देऊन पब्लिक नोटीस देता येईल. आयोग अशा नोटीसीकरिता येणारा खर्च कोणी करावा हे ठरवील.
८. सर्व गैरअर्जदार त्यांच्याविरुद्ध असलेल्या अर्जावर लिखित आक्षेप प्रति प्रतिज्ञापत्र दाखल करून करू शकतील. प्रतिप्रतिज्ञापत्र परिच्छेदनिहाय गुणवत्ततेनुसार बांडलेली असावे. सर्वसाधारण उत्तर अथवा नकार ऐकून घेतला जाणार नाही. एखाद्या प्रकरणात गैरअर्जदार जर केंद्र शासनाचे कार्यालय, राज्यशासन, शासन प्राधिकरण अथवा संस्था ज्याची मालकी, व्यवस्थापन व ताबा केन्द अथवा राज्यशासनाकडे असेल अशा प्रकरणात प्रतिज्ञापत्र त्या त्या विभागाच्या विभागप्रमुखाने करावे लागेल.
९. आयोगाला खालीलप्रमाणे अधिकार असतील.
 - अ) केन्द शासन, राज्य शासन अथवा कोणतेही प्राधिकरण यांचेकडून दस्तऐवज मागणे.
 - ब) कोणाही व्यक्तीस आयोगापुढे हजर राहण्याचे फर्मान काढणे व त्याकडून पुरावा शपथेवर घेणे किंवा प्रतिज्ञापत्र घेणे.
 - क) आयोगाच्या कामाबाबत कोणत्याही अधिका-याचे सहकार्य घेणे तसेच एखाद्या व्यक्तीस हजर करून घेणे.
१०. कमीत कमी दोन सदस्यांचा कोरम अर्जाच्या सुनावणीकरिता व आदेश देण्याकरिता राहील.

११. आयोग जेव्हा आयोगास आवश्यक वाटेल तेव्हा जिल्ह्यामध्ये भेट करतील. जनसुनावणी अधिकाऱ्यांसोबत व स्वयंसेवी संस्थांमार्फत आपल्या सदस्यांसमवेत किंवा विशेष निमंत्रित किंवा केंद्र शासनाचे अथवा राज्यशासनाचे अधिकारी स्वयंसेवी संस्था, संस्था व तज्ञ लोकांसमवेत आयोग आयोजित करतील.
१२. आयोग अशा पकरणांमध्ये अंतरिम आदेश देईल. शक्यतोवर आयोग अंतरिम आदेश दिल्याच्या दिनांकापासून ९० दिवसांचे आत अंतिम निर्णय देईल.
१३. आयोग सर्व पक्षकारांना त्यांची बाजू मांडण्याची संधी दिल्यानंतर लेखी निर्णय देईल. व सर्व संबंधितांना त्याची प्रत पाठवतील.
१४. आयोगाचे सर्व आदेश आयोगाचे सचिव अधिप्रमाणीत करतील व त्यावर आयोगाचे शिक्का राहील.

Notification No. 2

Maharashtra State Commission for Protection of Child Rights

**Constituted by the State Government's Order dated 24/07/2007,
Under the Central Government's Act 2005 here named as Commission
for protection of Child Right and rule made their under by State
Government on 31/05/2010.**

PROCEDURE

Any person / authority / organizations shall have liberty to move the state Commission for protection of Child Right here in after referred to as The commission by filing any application for seeking suitable relief against commission/omission or any action taken by State Government/Central Government or any other authorities/ organizations whether under the control of State Government or otherwise or suo moto notice of matter

Regarding

a) Deprivation and Violation of child right.

b) Non implementation of laws providing for protection and development of children.

c) Non compliance of policy decision, guideline or restriction aimed at mitigating hardship to and ensuring welfare of the children and to provide relief to such children.

d) Such other function as it may consider necessary for the promotion of child right or any other matter in incidental to the above function.

2. All applications should be addressed to Secretary, Maharashtra State Commission for protection of Child Right, IIIrd floor, G.T.S. Building, Sir pochkhanwala Road, Worli, Mumbai 400 030.

3. Every application shall set on the name, description and complete postal address of the applicant & respondents. It should be typed in double space on a fullscape.(Legal size paper)and shall set forth in chronological order and in correctively numbered paragraphs, all facts grounds and relief claimed and shall be signed by the applicants or his advocate.

4. six copies of the application shall be filed and it shall be accompanied by copies of such documents as are in the possession of the applicants support of his/her application, which shall be supported by a duly attested affidavit of the application. All the pages of the application shall be numbered.

5. A Copy of the application shall be sent by the applicant to all the respondents and photo copy of postal or courier receipt of proof of the same shall be filed along with the application.

6. Every application shall have index.

7. After the receipt of the application a notice of hearing shall be issued to the parties through the counsel, Central Government, State Government, any other authority, electronic mode or through any other means. The notice shall specify the date and place of hearing before the commission.

8. Where there are a number of applications in which common issues have been raised and similar subjects are sought, the commission may issue notice to the parties through public notice/ advertisement in news papers. The commission in such cases may determine that who shall bear the cost of publication of such notice.

9. The respondents shall be at liberty to file written objections to the application in the form of a counter affidavit (reply) with proof of service of advance copy to the applicant . The counter affidavit shall give para-wise reply on merits and no general replies or denials would be entertained . In case where the respondent(s) is an office of the Central Government, the State Government, Government Undertaking or any authority owned , managed or controlled by the Central/State Government, the counter affidavit shall be signed by the Head of such Department, Authority or Undertaking .

10. The Commission shall have the powers to.

(a) Call for any documents from any person or the Government of the Union or the State or any other official.

(b) Summon any person and receive evidence from such person on oath either on affidavit or otherwise .

(c) Seek assistance/ presence of any person(s) /official(s) required by it in relation to its work.

11. A quorum comprising two minimum members will be competent to hear the applications and pass orders.

12. The Commission may , as and when necessary, undertake field visits, hold public hearing with officials and NGOs through one or more of its members or through Special Invitees or such Central Government/ State Government officials, NGOs, institutions, and experts as the Commission may deem fit.

13. The Commission may pass interim order(s) to meet the ends of justice in such cases, as far as feasible, the Commission will pass final order within 90 days from the date of issue of the interim order.

14. The Commission, after giving opportunity of hearing to the parties pass orders in writing , copies of which shall be sent to the concerned parties.

15. All orders passed by the Committee shall be authenticated by the Secretary and shall bear the seal of the Commission.

16

Mandate under Right to Education Act 2010:

Under Section 31 & 32 of Right to Education Act 2010 the State Commission for Protection of Child Rights have been assigned following functions

I) examine and review the safeguards for rights provided by or under this act (Right to Education Act 2010) and recommend measures for their effective implementation.

II) inquire into complaints relating to child Right to free and compulsory education

III) Take necessary steps as provided under Section 15 and 24 of the said commission for protection of Child Right Act 2005.

IV) The commission shall while inquiring into any matter relating to child rights and compulsory education have the same power as assigned to them respectively under Section 14 and 24 of the commission for protection of child right act 2005.

V) Notwithstanding any thing contained in Section 31, any person having any grievance relating to the right of a child under Right to Education Act may make a written complaint to the local authority having jurisdiction.

VI) After receiving the complaints under sub section 32(1) the local authority shall decide the matter

VII) Any person aggrieved by the decision of local authority may prefer an appeal to the state commission. The appeal as preferred shall be decided by the state commission.

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